

E-FILED 05-17-2011

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

QUIA CORPORATION,

No. C10-01902 JF (HRL)

Plaintiff,

**ORDER (1) GRANTING IN PART
DEFENDANTS' MOTION FOR AN
ORDER SHORTENING TIME; AND (2)
SETTING DEADLINES FOR FURTHER
MEET-AND-CONFER AND JOINT
STATUS REPORT**

v.

MATTEL, INC. and FISHER-PRICE, INC.,

[Re: Docket No. 96]

Defendants.

Defendants move for an order shortening time on their motion to compel expert discovery. The crux of the instant discovery dispute is that plaintiff refuses to respond to defendants' expert subpoenas (seeking expert depositions and documents pertaining to plaintiff's experts' reports) on the ground that the time for such discovery has passed. Plaintiff's position, however, is unjustified in view of Judge Fogel's scheduling order setting June 3, 2011 as the expert discovery cutoff. (See Docket No. 94). Plaintiff suggests that the period for expert discovery does not contemplate or include service of expert subpoenas seeking documents and testimony relating to plaintiff's experts' reports. That proposition is contrary to any reasonable reading of the court's scheduling order. Indeed, this court wonders why this issue required a motion and takes a dim view of what appears to be gamesmanship by plaintiff designed to thwart the progress of expert discovery. This is particularly so when the parties

1 have been directed to “cooperate in good faith to schedule expert discovery before [the June 3,
2 2011] deadline.” (Id. at 2).

3 The parties’ respective papers also allude to disputes—other than timing—over
4 defendants’ requested expert discovery. On the record presented, however, this court finds that
5 there has been insufficient meet-and-confer on those particular issues. See Civ. L.R. 1-5(n).

6 Accordingly, defendants’ motion for an order shortening time is granted in part, and this
7 court further orders as follows:

8 Within the next 3 days, the parties’ attorneys shall meet and confer in person, face-to-
9 face about the issues, other than timing, pertaining to the discovery sought by defendants’
10 expert subpoenas. The meet-and-confer shall be attended by lead counsel for each side. If lead
11 counsel are not the most familiar with the issues to be discussed, then the attorney(s) who are
12 most knowledgeable shall also attend the meeting. If, after 3 days all of the issues have not
13 been resolved, then no later than **5:00 p.m. on May 24, 2011**, the parties shall file a joint status
14 report, not to exceed 7 pages, (1) certifying their compliance with this order, (2) identifying the
15 issues (if any) that remain in dispute and (3) stating the parties’ respective positions (and the
16 basis for each party’s position) as to each one. Upon review of that status report, the court will
17 decide whether it will hold a hearing and will provide notice to the parties accordingly.

18 SO ORDERED.

19 Dated: May 17, 2011

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21 _____
22 HOWARD R. LLOYD
23 UNITED STATES MAGISTRATE JUDGE
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1 5:10-cv-01902-JF Notice has been electronically mailed to:

2 Bobby A. Ghajar bobby.ghajar@pillsburylaw.com, grady.johnson@pillsburylaw.com

3 Kelly Wong Craven kelly.craven@pillsburylaw.com

4 Mark J. Nagle mnagle@murphyrosen.com, riwata@murphyrosen.com

5 Peter Edward Moll , Esq Peter.Moll@cwt.com, Matthew.Penfield@cwt.com

6 Robert L. Meylan rmeylan@murphyrosen.com, mtapia@murphyrosen.com

7 Shaunt Toros Arevian sarevian@murphyrosen.com

8 Shaw Pittman Shaw.Pittman@cwt.com

9 Steven Marc Weinberg smweinberg@cdas.com

10 Counsel are responsible for distributing copies of this document to co-counsel who have not
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